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**(1998) 12 OHC CK 0001**  
**In the Orissa High Court**  
**Case No : O.J.C. No. 4893 of 1996**

Smt. Jashoda Mohanta

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

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**Date of Decision :** 14-12-1998

**Acts Referred:**

**Citation :** (1999) 87 CLT 885

**Hon'ble Judges :** Susanta Chatterji, J;C.R. Pal, J

**Bench :** Division Bench

**Advocate :** P. Acharya, A.C. Samantaray, A. Patnaik and S.C. Pani, for the Appellant; B.P. Das, B. Pro Das, B.M. Sarangi and D.N. Mohanty, for the Respondent

**Final Decision :** Allowed

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## Judgement

Susanta Chatterji, J.—Writ Petitioner. Smt. Jasoda Mohanta, has asked for the following reliefs:

...to admit this writ application and issue Rule Nisi calling upon the opposite parties to show cause as to (a) why the appointment of the Petitioner shall not be approved as a Laboratory Attendant in the Department of Home Science with effect from 6-9-1989;

(b) why the salary of the Petitioner shall not be released from the grant-in-aid against the post of Laboratory" Attendant; and (c) Why such other consequential service benefits as have been accrued to the Petitioner shall not be extended to her from due date of eligibility. If the opposite parties fail to show cause or show insufficient cause the Hon"ble Court may graciously be pleased to make the rule absolute and issue a writ of mandamus commanding opposite parties 1 and 2 to accord approval to the appointment of the Petitioner against the post of Laboratory Attendant in the College and pass such other appropriate order directing the, opposite party No. 2 to release salary component of the Petitioner under Grant-in-order, 1994 and pass any other order/orders, direction/directions

as this Hon''bIe Court may deem fit and proper to meet the ends of justice...

2. It is stated that the Petitioner who is working as a Laboratory Attendant in the Department of Home Science of Panchpir Womens'' College, Karanjia in the district of Mayurbhanj has challenged the inaction of the opposite parties in not approving her appointment against the post of Laboratory Attendant. The Petitioner has further prayed that a direction be issued to the opposite parties to release her salary from the Grant- in-aid.

3. It is further stated that the Petitioner was initially selected for appointment against the post of Peon in the aforesaid College vide appointment order dated 1-1-1988 of the Secretary of the College. She was directed to join on or before 8.1-1988. The Petitioner submitted her joining report on 8-1.1988 in the College. It is stated that while the Petitioner was continuing as such, the Principal of the College directed her to attend the duty of Home Science Bearer of the College w. e. f. 26.11.1990. It is further stated that while submitting the staffing position to the Director of Higher Education for approval on 24-8-1994 Principal of the College furnished the name of the Petitioner against the post of Laboratory Attendant in the Department of Home Science. The post of Laboratory Attendant justifies in the College as per the approved yard-stick fixed by the Government. Since the Petitioner has been working as the Laboratory Attendant in the College since 6-9-1989 pursuant to the order under Annexure-2 of the Principal of the College and there being no other Laboratory Attendant in the College to work in the Department of Home Science, denial of approval to the appointment of the Petitioner against the said post is grossly illegal and there is no bar for approval of the appointment of the Petitioner in the said post.

4. It is alleged that the Petitioner submitted a representation on 9-2-1996 to the Director stating therein that while submitting the staff position for approval, the Principal of the College had illegally furnished the name of a male peon against the post of Laboratory Attendant in the Department of Home Science. The Petitioner submits that Home Science being a subject meant for girls'' students of the College a Lady Laboratory Attendant is required to be posted in the said Department. Stating all these facts in details, the Petitioner has asked for the reliefs as stated earlier.

5. The writ petition is opposed by the opposite parties by filing a counter affidavit and also a revised counter affidavit. It is disclosed, inter alia, that in fact the Petitioner was appointed against the post of peon as per her appointment letter dated 1-1-1988. The College authority had applied in Form-A for sanction of Grant-in-aid in favour of staff of the College where the Petitioner's name had been recommended as a peon but not as Laboratory Attendant. The functioning of the Petitioner as Laboratory Attendant is by an internal arrangement. The post of Laboratory Attendant is not sustainable because Orissa Grant in-Order, 1994 stipulates at paras 7 and 8 of the said order which runs as follows:

(i) The number of post of Laboratory Attendants that would be eligible for

approval shall be the same as the member of demonstrator eligible for approval in the same subject.

(ii) No post of demonstrator Laboratory Attendant or any post connected with Laboratory work of any subject shall be admissible under the yard-stick or be eligible for approval from any date prior to the date of approval of a post of Lecturer in that Department.

6. It is further stated that as no Demonstrator in the Department of Home Science has been appointed by the Governing Body of the College the question of Petitioner's claim to the post of Laboratory Attendant does not arise. The appointment given by the Management was purely an internal arrangement made by the Principal of the College.

7. Having heard Mr. Acharya for the Petitioner, Mr. B. P, Das for opposite party No. 4 and the learned Standing Counsel for the State, we are of the view that the Petitioner was appointed within the approved yard-stick. If the Petitioner has been directed to work against the post of Laboratory Attendant by convenience, the Petitioner does not lose the right to the substantive post for which she was appointed In the original counter affidavit it is stated that she was approved against the post of peon. The said position has been rectified by a revised counter affidavit. These type of contentions are not appreciated by this Court. If the Petitioner has actually been appointed and she was allowed to work as a Laboratory Attendant she should be approved as a Laboratory Attendant in the Department of Home Science, if there is a sanction post. If there is no such sanction post the claim of the Petitioner is not defeated for approval against the post of peon proper steps should be taken to approve the appointment of the Petitioner to the post of Laboratory Attendant and if there is no such post her appointment as a peon must be approved and she should be entitled to all financial benefits accordingly. The opposite parties are directed to take such steps within a period of three months from the date of communication of the order. The writ petition is allowed. Appropriate writ is issued accordingly. No costs.

C.R. Pal, J.

8. I agree.

9. Writ petition allowed.